

Chapter 83.

Group Life Insurance And Annuities.

Sec.

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23-83-101. Group contracts must meet group requirements.

- (a) Except where specifically provided otherwise, "policy" as used in this chapter shall include both life insurance and annuities.
- (b)(1) No policy shall be delivered in this state insuring the lives of more than one (1) individual with or without one (1) or more members of the family or one (1) or more dependents, or covering one (1) or more members of the family or one (1) or more dependents of the group of persons, unless to one (1) of the groups as provided for in §§ 23-83-102 - 23-83-107 and unless in compliance with the other applicable provisions of this chapter.
- (2) Subdivision (b)(1) of this section shall not apply to policies:

- (A) Insuring only individuals related by blood, marriage, or legal adoption;
- (B) Insuring only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or
- (C) Insuring only individuals otherwise having an insurable interest in each other's lives.

23-83-102. Employee groups.

A policy issued to an employer or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, shall be subject to the following requirements:

- (1)(A) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any classes thereof.
- (B) The policy may provide that the term "employees" shall include the employees of one (1) or more subsidiary corporations and the employees, individual proprietors, and partners of one (1) or more affiliated corporations, proprietorships, or partnerships if the business of the employer and of the affiliated corporations, proprietorships, or partnerships is under common control.
- (C) The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership.
- (D) The policy may provide that the term "employees" shall include retired employees and directors of a corporate employer.
- (E) A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials;
- (2) The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in subdivision (3) of this section, a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject the coverage in writing; and
- (3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

23-83-103. Labor union groups.

A policy issued to a labor union or similar employer organization, which shall be deemed to be the policyholder, to insure members of the union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

- (1) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all members of any classes thereof;
- (2) The premium for the policy shall be paid either from funds of the union or from funds contributed by the insured members specifically for their insurance, or from

- insurance, or from both. Except as provided in subdivision (3) of this section, a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing; and
- (3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

23-83-104. Trustee groups.

A policy issued to a trust or to the trustee of a fund established by two (2) or more employers, or by one (1) or more labor unions or similar employee organizations, or by one (1) or more employers and one (1) or more labor unions or similar employee organizations, which trust or trustee shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

- (1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any classes thereof. The policy may provide that the term "employees" shall include retired employees, the individual proprietor or partners if an employer is an individual proprietorship or a partnership, and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;
- (2) The premium for the policy shall be paid from funds contributed by the employer of the insured persons, or by the union or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employer or union or similar employee organization. Except as provided in subdivision (3) of this section, a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing; and
- (3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

23-83-105. Debtor groups and credit union groups.

- (a) A policy, excluding an annuity policy, issued to a creditor or its parent holding company or to a trustee or agent designated by two (2) or more creditors, which creditor, holding company, affiliate, trustee, or agent shall be deemed the policyholder, to insure debtors of the creditor, or creditors, subject to the following requirements:
- (1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor, or all of any classes thereof. The policy may provide that the term "debtor" shall include:
- (A) Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;
- (B) The debtors of one (1) or more subsidiary corporations; and

- (C) The debtors of one (1) or more affiliated corporations, proprietorships, or partnerships if the business of the policyholder and of the affiliated corporations, proprietorships, or partnerships is under common control;
- (2) The premium for the policy shall be paid either from the creditor's funds, or from charges collected from the insured debtors, or from both. Except as provided in subdivision (a)(3) of this section, a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors;
- (3) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer;
- (4) The amount of the insurance on the life of any debtor shall at no time exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor;
- (5) The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. The payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of the payment;
- (6) Notwithstanding the provisions of subdivisions (a)(1)-(5) of this section, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment on a nondecreasing or level term plan. Insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.
- (b) A policy, excluding an annuity policy, issued to a credit union or to a trustee or agent designated by two (2) or more credit unions, which credit union, trustee, or agent shall be deemed the policyholder, to insure members of the credit union or for the benefit of persons other than the credit union, trustee, or agent or any of their officials, subject to the following requirements:
 - (1) The members eligible for insurance shall be all of the members of the credit union or all members of any classes thereof;
 - (2) The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in subdivision (b)(3) of this section, must insure all eligible members;
 - (3) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer.

23-83-106. Association groups.

- (a) A policy can be issued to an association or to a trust or to the trustee or trustees of a fund established, created, or maintained for the benefit of members of one (1) or more associations.
- (b) The association shall have:
 - (1) At the outset a minimum of one hundred (100) persons;
 - (2) Been organized and maintained in good faith for purposes other than that of obtaining insurance;
 - (3) Been in active existence for at least two (2) years; and
 - (4) A constitution and bylaws which provide that:
 - (A) The association hold regular meetings not less than annually to further

- purposes of members;
 - (B) Except for credit unions, the association collect dues or solicit contributions from members; and
 - (C) The members have voting privileges and representation on the governing board and committees.
- (c) The policy shall be subject to the following requirements:
- (1) The policy may insure members of the association, employees thereof, or employees of members, or one (1) or more of the preceding or all of any classes thereof for the benefit of persons other than the employee's employer;
 - (2) The premium for the policy shall be paid from funds contributed by the association or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association or employer members;
 - (3) Except as provided in subdivision (c)(5) of this section, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject the coverage in writing;
 - (4) The Insurance Commissioner may issue regulations setting forth the disclosure requirements if a part or all of the premium for a policy issued under this section is derived from funds contributed by the covered persons for their insurance and if any compensation including, but not limited to, dividends, premiums refunds, or retroactive rate adjustments, is received, directly or indirectly, by the policyholder, including participating associations of a trust; and
 - (5) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

23-83-107. Restrictions on coverage of other groups.

Group insurance offered to a resident of this state under a group policy issued to a group other than one described in §§ 23-83-102 - 23-83-106 shall be subject to the following requirements:

- (1) No group policy or certificate shall be delivered in this state unless the Insurance Commissioner finds that:
 - (A) The issuance of the group policy is not contrary to the best interest of the public;
 - (B) The issuance of the group policy would be actuarially sound;
 - (C) The issuance of the group policy would result in economies of acquisition or administration; and
 - (D) The benefits are reasonable in relation to the premiums charged.
- (2) The premium for the policy shall be paid either from the policyholder's funds or from funds contributed by the covered persons, or from both;
- (3) The commissioner may issue regulations implementing the requirements of subdivision (1) of this section; and
- (4) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

23-83-108. Restrictions on coverage of spouse and dependent children of group member.

Except for a policy issued under § 23-83-105(a), a group policy, excluding an annuity policy, may be extended to insure the employees or members against loss due to the death of their spouses and dependent children or any classes thereof, subject to the following:

- (1) The premium for the insurance shall be paid either from funds contributed by the employer, union, association, or other person to whom the policy has been issued or from funds contributed by the covered persons, or from both. Except as provided in subdivision (2) of this section, a policy on which no part of the premium for the spouse's and dependent child's coverage is to be derived from funds contributed by the covered persons must insure all eligible employees or members with respect to their spouses and dependent children or any class or classes thereof, unless rejected in writing by the employee or member; and
- (2) An insurer may exclude or limit the coverage on any spouse or dependent child as to whom evidence of individual insurability is not satisfactory to the insurer.

23-83-109. Provisions required in policy.

- (a) No policy shall be delivered in this state unless it contains in substance the following provisions, or provisions which in the opinion of the Insurance Commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder.
- (b) However:
 - (1) Provisions in §§ 23-83-115 - 23-83-119, inclusive, shall not apply to policies insuring the lives of debtors;
 - (2) The standard provisions required for individual policies shall not apply to group policies; and
 - (3) If the group policy is an annuity policy or is a life insurance policy on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision which in the opinion of the commissioner is equitable to the insured persons and to the policyholder, but nothing in this subdivision shall be construed to require that group policies contain the same nonforfeiture provisions as are required for individual policies.

23-83-110. Grace period for payment of premium provision.

- (a) The group policy, excluding an annuity policy, shall contain a provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy.
- (b) The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

23-83-111. Incontestability provision.

- (a) The group policy shall contain a provision that the validity of the policy shall not be contested, except for fraud in the procurement or nonpayment of premiums after it has been in force for two (2) years from its date of issue, and that no statement made by any person insured under the policy relating to the insured's insurability shall be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force prior to the contest for a period of two (2) years during the person's lifetime, unless it is contained in a written instrument signed by the insured. However, at its option, the insurer may omit from the provision the phrase "except for fraud in the procurement".
- (b) However, no provision shall preclude the assertion at any time of defenses based upon provisions in the policy which relate to eligibility for coverage.

23-83-112. Application attached to policy provision - Statements deemed representations.

The group policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the person or, in the event of death or incapacity of the insured person, to his beneficiary or personal representative.

23-83-113. Insurability provision.

The group policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

23-83-114. Misstatement of age provision.

A group policy shall contain a provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated. The provision shall contain a clear statement of the method of adjustment to be used.

23-83-115. Payment of benefits provision.

A group policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured. However, where the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms, as to all or any part of such sum, subject to the provisions of the policy in the event there is no designated beneficiary living at the death of the person insured and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of the sum not exceeding ten thousand dollars (\$10,000) to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

23-83-116. Issuance of certificate to policyholder provision.

A group policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured a certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, as to any dependent's coverage included in such certificate, and the rights and conditions set forth in §§ 23-83-117 - 23-83-120 and 23-83-122.

23-83-117. Conversion on termination of eligibility provision.

A group policy, excluding an annuity policy, shall contain a provision that if the insurance or any portion of it on a person covered under the policy or on the dependent of a person covered ceases because of termination of employment or of membership in the classes eligible for coverage under the policy, the persons shall be entitled to have issued to them by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits. However, an application for the individual policy shall be made by the person covered under the policy or the dependent of the covered person and the first premium paid to the insurer within thirty-one (31) days after the termination and in addition:

- (1) At the option of the persons, the individual policy shall be on any one (1) of the forms then customarily issued by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect term insurance;
- (2) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of the termination, less the amount of any life insurance for which the person becomes eligible under the same or any other group policy within thirty-one (31) days after the termination. However, any amount of insurance which shall have matured on or before the date of the termination as an endowment payable to the person insured, whether in one (1) sum or in installments or in the form of an annuity, shall not be included, for the purposes of this provision, in the amount which is considered to cease because of the termination;
- (3) The premium on the individual policy shall be at the insurer's then-customary rate applicable to the form and amount of the individual policy, to the class of risk to which the person then belongs, and to his or her age attained on the effective date of the individual policy; and
- (4) Subject to the same conditions set forth above, the conversion privilege shall be available:
 - (A) To a surviving covered dependent, if any, at the death of the covered person, with respect to the coverage under the group policy which terminates by reason of the death; and
 - (B) To the covered dependent of the person upon termination of coverage of the dependent, while the covered person remains insured under the group policy, by reason of the dependent's ceasing to be a qualified family member under the group policy.

23-83-118. Conversion on termination of policy provision.

- (a) A group policy, excluding an annuity policy, shall contain a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of the termination whose insurance terminates, including the insured dependent of a covered person, and who has been an insured for at least five (5) years prior to the termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by § 23-83-117.
- (b) However, the group policy may provide that the amount of the individual policy shall not exceed the smaller of:
 - (1) The amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under a group policy issued or reinstated by the same or another insurer within thirty-one (31) days after the termination; or
 - (2) Ten thousand dollars (\$10,000).

23-83-119. Death pending conversion provision.

A group policy, excluding an annuity policy, shall contain a provision that if a person insured under the group policy, or the insured dependent of a covered person, dies during the period within which the individual would have been entitled to have an individual policy issued to him in accordance with §§ 23-83-117 and 23-83-118 and before the individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under the individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

23-83-120. Continuation of coverage during insured's total disability provision.

- (a) A group policy, excluding an annuity policy, shall contain a provision that where active employment is a condition of insurance, a provision that an insured may continue coverage during the insured's total disability by timely payment to the policyholder of that portion, if any, of the premium that would have been required from the insured had total disability not occurred.
- (b) The continuation shall be on a premium-paying basis for a period of six (6) months from the date on which the total disability started, but not beyond the earlier of approval by the insurer of continuation of the coverage under any disability provision which the group insurance policy may contain or the discontinuance of the group insurance policy.

23-83-121. Delivery of certificate of insurance to insured debtors provision.

In the case of a policy insuring the lives of debtors, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a certificate of insurance describing the coverage and specifying that the death benefit shall first be applied to reduce or extinguish the indebtedness shall be included.

23-83-122. Notice as to conversion right.

- (a) If any individual insured under a group policy, excluding an annuity policy, hereafter delivered in this state becomes entitled under the terms of the policy to have an individual policy of life insurance issued to him or her without evidence of insurability, subject to making of application and payment of the first premium by the individual within the period specified in the policy and if the individual is not given notice of the existence of the right at least fifteen (15) days prior to the expiration date of the period, then the individual shall have an additional period within which to exercise that right. Nothing in this subsection shall be construed to continue any insurance beyond the period provided in the policy.
- (b) Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

23-83-123. Group insurance on Arkansas residents must be placed in authorized insurers.

- (a) All group life, annuity, and disability insurance placed by an employer on employees who are residents of this state shall be placed by the employer with an insurer authorized to transact insurance in this state.
- (b) This section shall not apply to group insurance lawfully placed in an authorized insurer as a surplus line under chapter 65 of this title.

23-83-124. Group insurance in unauthorized insurer.

- (a) Any employer in this state withholding or collecting any money from employees who are residents of this state for any group life, annuity, or disability insurance placed with an unauthorized insurer, in violation of § 23-83-123, shall be deemed to be the agent of the insurer for the purpose of service of process in any action brought by any employee on the insurance contract.
- (b) If the employee is unable to collect a judgment entered in an action against the unauthorized insurer, then the employer referred to in subsection (a) of this section shall be liable for the judgment.
- (c) An unauthorized insurer shall be deemed to be doing business in this state for the purpose of service of process in any action.
- (d) This section shall not apply to group insurance lawfully placed in an insurer as a surplus line under § 23-65-101 et seq.

23-83-125. Assignment of rights or incidents of ownership.

Nothing in §§ 23-83-101 - 23-83-124 shall prohibit a person who is insured under any group policy from making an assignment or otherwise disposing of all or any part of his or her rights or incidents of ownership under the policy.

23-83-126. Assignment of rights not to prejudice insurer.

Subject to the terms of the group policy relating to assignment of rights or incidents of ownership thereunder, an assignment by the insured, whether made before or after June 17, 1981, shall vest in the assignee all of such rights or incidents of ownership so

assigned in accordance with any provisions of the assignment as to the effective date thereof, but the assignment shall be without prejudice to the insurer on account of any payment it may make or individual policy it may issue prior to receipt of notice of the assignment.

23-83-127. [Repealed.]